

# **INITIAL STATEMENT OF REASONS**

**CCR § 2247, 2249, 2030**

## ***PRISONER REVIEW OF CENTRAL FILE AND PRESENTATION OF DOCUMENTS***

### **CIRCUMSTANCE THAT THE REGULATORY AMENDMENT IS INTENDED TO ADDRESS**

#### **INTRODUCTION**

This action is designed to provide more clarity and uniformity for prehearing procedures for prisoners serving terms of life with the possibility of parole (life prisoner). This action is also designed to provide the members of the hearing panel with an opportunity to review and evaluate documents provided by the prisoner prior to the parole consideration hearing. It is anticipated that this action will improve the efficiency of parole hearings, allow panel members to make a more fully informed decisions, and provide the prisoner with a better opportunity to present his issues to the hearing panel.

The Board of Prison Terms (Board) is responsible for determining whether a life prisoner should be released on parole. According to Penal Code section 3041.5, a life prisoner is afforded a number of procedural safeguards prior to the various types of parole proceedings conducted for life prisoners.

This action is designed to allow the life prisoner an opportunity to review his or her central file at least 30 days prior to the hearing. Under this action, a prisoner shall be required to submit documents not contained in the central file at least 10 days before the parole hearing. Additionally, the Classification and Parole Representative (C&PR) for the Department of Corrections (CDC) is required to forward to the prosecutor copies of all documents submitted by the prisoner for consideration to the hearing panel under the proposed amendment to the regulations. This action is also designed to make clear that documents submitted by other parties which bear on the prisoner's suitability for parole are not required to be submitted 10 days prior to the hearing. Finally, this action corrects an internal reference to the CDC regulations governing administrative appeals.

#### **SECTION 2247**

**Central File Review.** Under the present version of Section 2247, a life prisoner is entitled to review his or her central file at least 10 days before the week of the parole hearing. Under this action, the prisoner is entitled to review his or her central file at least 30 days before the week of the parole hearing. According to Section 2000(b)(18), a central file is defined as a master file maintained by CDC containing records regarding each person committed to prison.

Under this action, the prisoner will review his or her central file at least 30 days before the week of the parole hearing. As a result, the prisoner will have an earlier opportunity to review the file in order to better prepare for the upcoming hearing.

**CDC Administrative Appeals.** Under this action, the internal reference to the regulations governing the CDC administrative appeal process has been modified to come into compliance with changes in the CDC regulations.

**Documents Submitted By Other Parties.** As discussed in greater detail in another portion of the Initial Statement of Reasons, this action will require that a life prisoner submit certain documents at least 10 days prior to the parole hearing. Section 2247 is amended in this action to make clear that documents authored by other parties which bear on the question of a prisoner's suitability for parole are not subject to this time constraint.

### **SECTION 2249**

**Prisoner Presentation Of Documents.** According to the existing version of Section 2249, a prisoner has the right to present relevant documents to the hearing panel at parole hearings. Under this action, the prisoner will be required to submit documents which are not already available in the central file to CDC staff not later than 10 days prior to the hearing. The proposed amendment also provides that failure to submit documents in a timely manner may result in exclusion of the information at the hearing.

This action is generally designed to provide the prisoner with more time to prepare for the hearing. The proposed amendment to Section 2249 is designed to provide the panel members with an opportunity to consider and reflect on the information provided by the prisoner prior to the hearing. It is anticipated that this will result in more efficient hearings and provide the prisoner with a better opportunity to present his or her case to the hearing panel.

**Documents Submitted By Other Parties.** Additionally, this action provides that documents authored by other parties which bear on the question of a prisoner's suitability for parole are not subject to the time constraints in this section.

### **SECTION 2030**

Section 2030 describes the procedures governing prosecutor participation at hearings involving life prisoners and extended term hearings. Under the present version of Section 2030(c), the prosecutor is required to submit documents that are not readily available in the central file to CDC staff at least 10 days before the hearing. Under this action, the critical participants in the hearing (prisoner, prisoner's representative, and the prosecutor) are all now required to submit documents to be considered by the panel at least 10 days prior to the hearing.

**Documents Submitted By Other Parties.** Section 2030(c) is designed to make clear that documents authored by other parties which bear on the question of a prisoner's suitability for parole are not subject to the time constraints in this section.

**C&PR Responsibilities.** The proposed amendment to Section 2030(c) will also require the C&PR to forward documents submitted by the prisoner and his or her representative to the prosecutor. The C&PR was designated as the person responsible for assuring compliance with Section 2030(e) because the C&PR is the CDC employee at each institution who has been designated to be the liaison with the Board. Section 2000(b)(13) describes the C&PR's responsibilities to the Board.

It is believed that this amendment to Section 2030(c) will provide these critical participants in the hearing a better opportunity to be prepared for issues which arise during the parole hearing. This will allow the hearing panel to come to a more fully informed decision. It is anticipated that parole hearings will be conducted in a more efficient manner under this action.

## **NECESSITY**

The proposed regulatory amendment is necessary to provide consistent guidelines when submitting relevant documentation prior to parole consideration hearings. In order to promote consistency and fairness, and to adhere to the language in CCR, section 2030, it is necessary for prisoners to submit relevant documentation within the same time period (ten days) to allow the hearing panel, attorneys, and other parties to the case, sufficient time to review such information and render a proper decision.

## **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS**

The BPT did not rely on any technical, theoretical, or empirical studies in consideration of the proposed action.

## **ALTERNATIVES TO THE REGULATION CONSIDERED BY THE AGENCY**

The BPT must determine that no reasonable alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## **ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS**

The BPT has not identified any alternatives that would lessen any adverse impact on small businesses.